

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

CRIMINAL APPLICATION NO.1639 OF 2022

1. Ganesh s/o Indarrao Sonwane
2. Shakuntala w/o Indarrao Sonwane
3. Indarrao s/o Dagadu Sonwane
4. Chhaya d/o Indarrao Sonwane
5. Dagadu @ Babasaheb Indarrao Sonwane
6. Yogesh s/o Indarrao Sonwane .. Applicants

Versus

1. The State of Maharashtra
Through Police Station,
Pathri, Dist. Parbhani.
2. Sonali d/o Vishnu Sontakke .. Respondents

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Mr. S. J. Salunke, Advocate for applicants.

Mr. A. M. Phule, APP for respondent No.1 - State.

Mr. B. A. Shinde, Advocate for respondent No.2.

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**CORAM : SMT. VIBHA KANKANWADI AND
ABHAY S. WAGHWASE, JJ.**

DATE : DECEMBER 08, 2022

ORDER :- [Per Smt. Vibha Kankanwadi, J.]

. Present application has been filed by invoking the inherent powers of this Court under Section 482 of the Code of Criminal Procedure for quashing the FIR bearing Crime No.08 of 2022 registered with Pathri Police Station, Dist. Parbhani on 06.01.2022 for the offence punishable under Sections 498-A, 323, 504, 506 read with Section 34 of Indian Penal Code (for short "IPC") as well

as the further proceedings in R.C.C. No.63 of 2022 pending before the learned Judicial Magistrate First Class, Pathri, Dist. Parbhani.

2. Heard learned Advocate Mr. S. J. Salunke for the applicants, learned APP Mr. A. M. Phule for respondent No.1 - State and learned Advocate Mr. B. A. Shinde for respondent No.2.

3. After hearing learned Advocate for the applicants for sometime, when this Court expressed its disinclination to grant any relief in favour of applicant Nos.1 to 3, learned Advocate for the applicants, on instructions, seeks withdrawal of the application in respect applicant Nos.1 to 3. Hence, the application stands disposed of as withdrawn in respect of applicant Nos.1 to 3. Now, the matter to proceed only for the reliefs claimed by applicant Nos.4 to 6.

4. Perusal of the FIR lodged by respondent No.2 would show that applicant No.4 is the sister-in-law of respondent No.2 and applicant Nos.5 and 6 are the brothers-in-law of respondent No.2. We are considering the reliefs claimed by applicant Nos.4 to 6 only and therefore, the allegations against them are required to be considered from the FIR as well as the entire charge-sheet. The charge-sheet contains the statements of the mother, father, brother of informant and a neighbour of father of the informant. Those statements are stereotype and, therefore, we are required to

consider more as to what are the allegations against applicant Nos.4 to 6 in the FIR. Important point to be noted is that though the sister-in-law resides at a different place so also both the brothers-in-law are residing at a different place in connection with their service, yet those facts have not been mentioned in the FIR. In other words, it can be said that the informant has concealed the said fact that applicant Nos.4 to 6 were not residing on permanent basis at Kille Dharur. Applicant No.4 also appears to be residing in Kille Dharur. Her identity card shows that she is the Government employee and she is serving as Lab Technician in Rural Health Center. It was tried to be contended on behalf of respondent No.2 that after applicant No.1 - husband alleged to have lost his job, applicant No.4 was controlling the affairs of the house. It is to be noted from the FIR that the informant states that she was driven out of the house on 14.05.2017 and then she started residing with her father at Indira Nagar, Pathri. She further states that she went to her matrimonial home on 07.11.2021. Thus, she has not given the account of the events those had taken place after 14.05.2017 till 07.11.2021. As regards the allegations against applicant Nos.4 to 6 are concerned, they are omnibus and it is stated that applicant Nos.1 to 3 used to make demand of the amount so also it is stated that she was tried to be insisted to give false statement/deposition in the case under Section 498-A against applicant No.5. The

charge-sheet in this case does not contain any statement or the charge-sheet from that case, in which applicant No.5 is an accused. Therefore, taking into consideration the omnibus statements/allegations, applicant Nos.4 to 6 need not be asked to face the trial.

5. Reliance can be placed on the decision in ***Kahkashan Kausar @ Sonam and Ors. Vs. State of Bihar and Ors., Criminal Appeal No.195 of 2022*** decided by the Hon'ble Supreme Court on 08.02.2022, wherein the decisions in ***Rajesh Sharma and Ors. Vs. State of U.P. and Anr., [(2018) 10 SCC 472]***, ***Arnesh Kumar Vs. State of Bihar and Anr., [(2014) 8 SCC 273]***, ***Preeti Gupta and Anr. Vs. State of Jharkhand and Anr., [(2010) 7 SCC 667]***, ***Geeta Mehrotra and Anr. Vs. State of UP and Anr., [(2012) 10 SCC 741]*** and ***K. Subba Rao Vs. The State of Telangana, [(2018) 14 SCC 452]*** have been considered and it has been observed thus :-

"18. The above-mentioned decisions clearly demonstrate that this Court has at numerous instances expressed concern over the misuse of section 498A IPC and the increased tendency of implicating relatives of the husband in matrimonial disputes, without analysing the long term ramifications of a trial on the complainant as well as the accused. It is further manifest from the said judgments that false implication by way of general

omnibus allegations made in the course of matrimonial dispute, if left unchecked would result in misuse of the process of law. Therefore, this Court by way of its judgments has warned the courts from proceeding against the relatives and in-laws of the husband when no *prima facie* case is made out against them."

6. Taking into consideration the above noted decisions, we are of the opinion that the ingredients of offence punishable under Section 498-A of IPC are not attracted as against the applicant Nos.4 to 6. Therefore, in our view, this is a fit case wherein we should exercise our discretion under Section 482 of the Code of Criminal Procedure to quash and set aside the the FIR and the proceedings arising therefrom as against the applicant Nos.4 to 6. Hence, the following order :-

ORDER

- I) Application stands allowed in respect of applicant Nos.4 to 6.
- II) Application stands disposed of as withdrawn in respect of applicant No.1 to 3.
- III) The FIR bearing Crime No.08 of 2022 dated 06.01.2022 registered with Pathri Police Station, Dist. Parbhani for the offences punishable under Sections 498-A, 323, 504, 506 read with

Section 34 of IPC as well as the further proceedings in R.C.C. No.63 of 2022 pending before the learned Judicial Magistrate First Class, Pathri, Dist. Parbhani stand quashed and set aside, as against applicant Nos.4 to 6.

[ABHAY S. WAGHWASE]
JUDGE

[SMT. VIBHA KANKANWADI]
JUDGE

scm